

1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
2 IN AND FOR THE COUNTY OF COCHISE
3

4 STATE OF ARIZONA,

5 Plaintiff,

6 vs.

No. CR201800156

7 LONNIE McCOY,

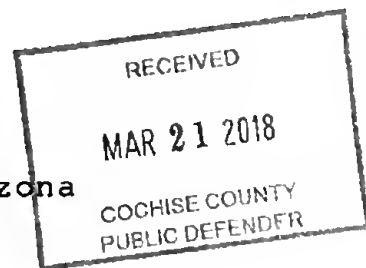
8 Defendant.
9

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11 COURT REPORTER'S TRANSCRIPT OF GRAND JURY PROCEEDINGS

12 FEBRUARY 15, 2018
13 BISBEE, ARIZONA
14

15 APPEARANCES:

16 Ms. Terisha Driggs, Esq.
17 Deputy County Attorney
18 Attorney for the State of Arizona



19 **COPY**
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23 AARON SCHLESINGER
24 CERTIFIED COURT REPORTER #50095
25 COCHISE COUNTY SUPERIOR COURT, DIVISION V
P.O. DRAWER CJ
BISBEE, ARIZONA, 85603
(520) 432-8494

GRAND JURORS PRESENT

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COLEMAN, PAUL
COMADURAN, ANTONIO
DIETZ, TERRY - BAILIFF
HANCOCK, DUSTIN - FOREMAN
HERRIMAN, JUDY
KELLER, PAMELA
McGINTY, CINDY - CLERK
NORTON, BRUCE
ROARK, KERRY
SKINNER, MARY
SMITH, ANNABELLE
STURTEVANT, MEGAN
TAYLOR, LUCINDA
WHITE, ROBERT
WOLCOTT, CONNIE

1 MS. DRIGGS: Good afternoon. My name is
2 Terisha Driggs, Deputy County Attorney with Cochise
3 County. Today is February 15th, 2018. We are here
4 with the Grand Jury. This is a case of theft from a
5 vulnerable adult and unlawful use of a power of
6 attorney as well as money laundering. That all
7 occurred between December 13th of 2016 and August 1,
8 2017 in Sierra Vista.

9 Does anybody believe that they have
10 personal familiarity with the circumstances that I have
11 described?

12 I see no hands.

13 The defendant in this case is Lonnie
14 McCoy. Does anybody believe that they have any
15 personal familiarity with Mr. McCoy?

16 I see no hands.

17 The witnesses or other people involved in
18 this case include Officer Papatrefon, Peter VanWesep,
19 Kelly Janney, Sandra O'Riley, Taylor Voegeli, Mario
20 Gonzalez, Ginger Shreve and Eva Morales McCoy.

21 Does anybody believe that they have any
22 familiarity with any of those names that I just read?

23 I see no hands.

24 If at any point you believe you are
25 personally familiar with anyone mentioned, please

1 notify me immediately.

2 In order to assist you in determining
3 whether or not probable cause exists in this matter,
4 the following statutes may be appropriate: 13-1802,
5 Mr. Foreman, has that been read?

6 THE FOREPERSON: Yes.

7 MS. DRIGGS: 46-451, Mr. Foreman, has
8 that been read?

9 THE FOREPERSON: I do not believe that
10 we've had that one on our statute list. What was the
11 number again?

12 MS. DRIGGS: 46-451. You will have to
13 excuse me while I pull it up from the Arizona
14 Legislature website. A.R.S. 46-451 definitions:

15 A. In this chapter, unless the context
16 otherwise requires:

17 1. Abuse means:

18 A. Intentional infliction of physical
19 harm.

20 B. Injury caused by negligent acts or
21 omission.

22 C. Unreasonable confinement.

23 D. Sexual abuse or sexual assault.

24 2. De facto conservator means a person
25 who takes possession of the estate of a vulnerable

1 adult without right or lawful authority. A de facto
2 conservator is subject to all of the responsibilities
3 that attach to a legally appointed conservator or
4 trustee.

5 3. De facto guardian means any person
6 that takes possession of the person of a vulnerable
7 adult without right of lawful authority. A de facto
8 guardian is subject to all of the responsibilities that
9 attach to a legally appointed guardian.

10 Exploitation means the illegal or
11 improper use of a vulnerable adult or his or her
12 resources for another's profit or advantage.

13 Informed consent means any of the
14 following:

15 A. A written expression by the person
16 that the person fully understands the potential risks
17 and benefits of the withdrawal of food, water,
18 medication, medical services, shelter, cooling, heating
19 or other services necessary to maintain minimum
20 physical or mental health, and that the person desires
21 that the services be withdrawn. A written expression
22 is valid only if the person is of sound mind and if
23 consent is witnessed by at least two individuals who do
24 not benefit from the withdrawal of services.

25 I am skipping down to No. 9 which is

1 vulnerable adult as the other definitions are not
2 applicable to this case.

3 Vulnerable adult means an individual who
4 is 18 years age or older and unable to protect himself
5 from abuse, neglect, or exploitation by others because
6 of physical or mental impairment. A vulnerable adult
7 includes an incapacitated person as defined by section
8 14-5101.

9 Finding nothing else applies to this
10 particular case, I am not going to read the rest of the
11 statute, as long as that's okay with the members of the
12 Grand Jury. I see heads nodding yes and nobody nodding
13 no, so we'll proceed on.

14 Mr. Foreman, 46-456, has that been read?

15 THE FOREPERSON: No.

16 MS.DRIGGS: 46-456, duty to a vulnerable
17 adult, financial exploitation, civil penalties,
18 exceptions, definitions:

19 A. A person who is in a position of
20 trust and confidence to a vulnerable adult shall use
21 the vulnerable adult's assets solely for the benefit of
22 the vulnerable adult and not for the benefit of the
23 person who is in the position of trust and confidence
24 to the vulnerable adult, or the person's relatives
25 unless the following applies:

1 1. The Superior Court gives prior
2 approval of the transaction on a finding that the
3 transaction is for benefit of the vulnerable adult.

4 2. The transaction is specifically
5 authorized in a valid durable power of attorney that is
6 executed by the vulnerable adult as the principal or a
7 in a valid trust instrument that is executed by the
8 vulnerable adult as a settlor.

9 I am skipping down to assets, which is:

10 1. Is defined to include all forms of
11 personal and real property. That was one.

12 2. Disposition or appointment of
13 property includes the transfer of an item of property
14 or any other benefit of a beneficiary designated in a
15 governing instrument.

16 3. For the benefit of the vulnerable
17 adult includes any act that is consistent with the
18 clearly stated wishes of the vulnerable adult found by
19 the court to be made without coercion while the
20 vulnerable adult was of sound mind.

21 4. Governing instrument means a deed, a
22 will, a trust, a custodianship, an insurance or annuity
23 policy, an account with pay on death designation, a
24 security registered in a beneficiary form, a pension or
25 profit sharing retirement or similar benefit plan, a

1 family limited partnership, an instrument creating or
2 exercising a power of appointment, a power of attorney,
3 estate planning document or a dispositive, appointive
4 or nominative instrument of a similar type.

5 5. Position of trust and confidence
6 means a person is any of the following:

7 A. A person who assumed a duty to
8 provide care to the vulnerable adult.

9 B. A joint tenant or tenant in common
10 with a vulnerable adult.

11 C. A person who is in a fiduciary
12 relationship with a vulnerable adult, including a de
13 facto guardian or de facto conservator.

14 D. A person who is in a confidential
15 relationship with a vulnerable adult. The issue of
16 whether a confidential relationship exists shall be an
17 issue of fact to be decided by the court based on the
18 totality of circumstances.

19 E. A beneficiary of vulnerable adult in
20 a governing instrument.

21 There are parts of the statute that I
22 have omitted for brevity, and order to read the section
23 that are applicable to this matter at hand, would
24 anybody like me to read the remaining portions of the
25 statute?

1 I see no hands.

2 14-5506, Mr. Foreman, has that been read?

3 THE FOREPERSON: No, I don't believe it's
4 in our books.

5 MS. DRIGGS: I believe that is correct.
6 14-5506, powers of attorney, intimidation, deception,
7 definitions:

8 A. If the agent acted with intimidation
9 or deception in procuring a power of attorney or any
10 authority provided in a power of attorney, the agent is
11 subject to prosecution under Title 13 and civil
12 penalties pursuant to section 46-456.

13 And skipping a portion which I do not
14 believe is applicable, does anybody want me to read
15 that portion?

16 THE FOREPERSON: No.

17 MS. DRIGGS: Thank you. For purposes of
18 this section:

19 1. Capacity means that at the time the
20 power of attorney was executed, the principal was
21 capable of understanding in a reasonable manner the
22 nature and effect of the act of executing and granting
23 the power of attorney.

24 Intimidation includes threatening to
25 deprive a vulnerable adult of food, nutrition, shelter

1 or necessary medication or medical treatment; and

2 3. Vulnerable adult has the same meaning
3 as prescribed in section 46-451 which I did read.

4 Would anybody like me to read that again?

5 I see no hands.

6 13-2713, Mr. Foreman, has that been read?

7 THE FOREPERSON: No.

8 MS. DRIGGS: 13-2317, money laundering,
9 classification, definitions. Again, here I will read
10 excerpts as I feel they are applicable, but should
11 anybody desire that I read it in its entirety, please
12 feel free to stop me at any time.

13 A. A person is guilty of money laundry
14 in the first degree if the person does any of the
15 following:

16 1. Knowingly initiates, organizes,
17 plans, finances, directs, manages, supervises, or is in
18 the business of money laundering, in violation of
19 subsection B of this section.

20 2. Violates subsection B of this section
21 in the course of or for the purpose of facilitating
22 terrorism or murder.

23 B. A person is guilty of money
24 laundering in the second degree if any of following:

25 1. Acquires or maintains an interest in,

1 transacts, transfers, transports, receives or conceals
2 the existence or nature of racketeering proceeds
3 knowing or having reason to know that they are the
4 proceeds of an offense.

5 2. Makes property available to another
6 by transaction, transportation, or otherwise knowing
7 that it is intended to be used to facilitate
8 racketeering.

9 3. Conducts a transaction knowing or
10 having reason to know that the property involved is the
11 proceeds of an offense with the intent to conceal or
12 disguise the nature, location, source, ownership or
13 control of the property or the intent to facilitate
14 racketeering.

15 4. Intentionally or knowingly makes a
16 false statement, misrepresentation or false
17 certification, or makes a false entry or omits a
18 material entry in any application, financial statement,
19 application, account record, customer receipt, report
20 or other document that is filed or required to be
21 maintained or filed under Title 6, Chapter 12.

22 That's all of the applicable portions of
23 that statute. With that said, I would like to read an
24 excerpt from 13-2301 on racketeering. Mr. Foreman, has
25 the definition of racketeering been read? Has that

1 been read?

2 THE FOREPERSON: No.

3 MS. DRIGGS: Racketeering means any act,
4 including any predatory or completed offense, that is
5 chargeable or indictable under the laws of the State or
6 county in which the act occurred and, if the act
7 occurred in a state or country other than this state,
8 that would be chargeable or indictable under the laws
9 of this state if this act had occurred in this state,
10 and that would be punishable by more than one year
11 under the laws of this state and, if the act occurred
12 in a state or country other than this state, under the
13 laws of the state or country in which the act occurred,
14 regardless of whether the act is charged or indicted,
15 and the act involves either:

16 A. Terrorism, animal terrorism or
17 ecological terrorism that results or is intended to
18 result in serious physical injury or death.

19 B. Any of the following acts if
20 committed for financial gain: Homicide, robbery,
21 kidnapping, forgery, theft, bribery, gambling, usury,
22 extortion or money laundering.

23 I have intentionally left out other
24 definitions that are not applicable. Would anybody
25 like me to read the other acts which would also

1 constitute racketeering?

2 I see no hands.

3 13-1802, Mr. Foreman, has that been read?

4 THE FOREPERSON: Yes.

5 MS. DRIGGS: 13-1815, Mr. Foreman, has
6 that been read?

7 THE FOREPERSON: No, it is not on our
8 list.

9 MS. DRIGGS: 13-1815 unlawful use of a
10 power of attorney, classification:

11 A. An agent who holds a principal's
12 power or attorney, pursuant to Title 14, Chapter 5,
13 Article 5 and who uses or manages that principal's
14 assets or property with the intent to unlawfully
15 deprive that person is guilty of theft.

16 Those are all the applicable statutes.

17 Would anybody like any of those statutes
18 reread, or does anybody have any questions regarding
19 clarification at this time?

20 I see no hands.

21 Mr. Foreman, members of the Grand Jury,
22 may I please read the draft Indictment?

23 THE FOREPERSON: Yes.

24 MS. DRIGGS: Thank you. The County of
25 Cochise, State of Arizona, by its authority accuse

1 Lonnie McCoy and charge that in Cochise County:

2 Count 1: Theft from a vulnerable adult:

3 On or between December 13th, 2016 and August 1, 2017,
4 Lonnie McCoy, without lawful authority, knowingly took
5 control, title, use, or management of a vulnerable
6 adult's property, to wit; U.S. currency belonging to
7 SO, with a value greater than \$4,000 but less than
8 \$25,000, while acting in a position of trust and
9 confidence and with the intent to deprive the
10 vulnerable adult of the property, in violation of
11 Arizona law.

12 Count 2: Unlawful use of a power of

13 attorney: On or between December 13th, 2016 and August
14 1, 2017, Lonnie McCoy, an agent who held SO's power of
15 attorney pursuant to A.R.S. 14-5501, et seq, used or
16 managed SO's assets or property, to wit; U.S. currency
17 with a value greater than four thousand dollars but
18 less than \$25,000, with the intent to unlawfully
19 deprive SO of the assets or property, all in violation
20 of Arizona law.

21 Count 3: Money laundering in the first

22 degree: On or between December 13, 2016 and August 1,
23 2017, Lonnie McCoy knowingly initiated, organized,
24 planned, financed, directed, managed, supervised or was
25 in the business of money laundering, all in violation

1 of Arizona law.

2 Let the record reflect that I am handing
3 the Indictment and Grand Jury Minutes to the Foreman.
4 My apologies for not handing them to you sooner. This
5 form of Indictment is prepared solely for your
6 convenience and should not be construed as an
7 expression of opinion by the County Attorney's Office.

8 I will not purposely say or do anything
9 in this presentation that is to be construed as an
10 indication of my opinion of any fact. If you feel that
11 I have done so, please disregard those indications.
12 You are the sole judges of facts. Questions posed and
13 statements made by the attorneys are not evidence.
14 Evidence comes from the witness stand and from the
15 exhibits.

16 Mr. Foreman and members of the Grand
17 Jury, may I call the witness?

18 THE FOREPERSON: Yes.

19 MS. DRIGGS: Mr. Bailiff, will you please
20 call Detective Papatrefon.

21

22 DETECTIVE JOHN PAPATREFON,
23 having been duly sworn, was examined and testified as
24 follows:

25

DIRECT EXAMINATION

1

2 BY MS. DRIGGS:

3 Q Please state your name for the record.

4 A John Andrew Papatrefon,

5 P-a-p-a-t-r-e-f-o-n.

6 Q Where are you employed?

7 A With the City of Sierra Vista as a
8 Detective.

9 Q How long have you been employed there?

10 A I have been a police officer for 16 years
11 and two months with the Sierra Vista Police Department.

12 Q Were you contacted by Adult Protective
13 Services regarding Ms. Sandra O'Riley?

14 A Yes, I was.

15 Q And what did Adult Protective Services
16 report to you?

17 A They reported that Ms. Sandra O'Riley was
18 not being -- they got reports of her not being taken
19 care of by the person who was supposed to be taking
20 care of her.

21 Q Do you recall if that report was made on
22 December 14th, 2017?

23 A Yes, it was, to Peter VanWesep.

24 Q And who was the caretaker that was
25 reported as not taking care of Ms. O'Riley?

1 A Lonnie McCoy.

2 Q Are you familiar with how Mr. McCoy knew
3 Ms. Riley?

4 A Yes, I am.

5 Q How is that?

6 A Back in November of 2016, he was friends
7 with Ms. O'Riley's daughter, and that's how they became
8 close with Sandra.

9 Q And did you open up an investigation to
10 look into the claims that were made by Adult Protective
11 Services?

12 A Yes, I did.

13 Q And what was the result of that
14 investigation?

15 A I found that Mr. McCoy had -- did have a
16 power of attorney signed over to him by Sandra O'Riley.
17 By signing over the power of attorney, any bills, any
18 money that is given out, there is no gifts, it has to
19 be used for Sandra O'Riley only. And what I found is
20 that Mr. McCoy was using the money for his own use.

21 Q Do you recall when that power of attorney
22 was created?

23 A December 13, 2016.

24 Q And do you recall if Angela Voegeli was
25 the Notary on that power of attorney?

1 A Yes, she was.

2 Q Did you interview Ms. Voegeli?

3 A I did.

4 Q Did she confirm to you that she did in
5 fact notarize a durable power of attorney for Mr.
6 McCoy?

7 A Yes, she did.

8 Q And that Mr. McCoy then became a power of
9 attorney for Sandra?

10 A Yes.

11 Q Was Sandra present at the time?

12 A At the time of the signing of the power
13 of attorney, yes, she was.

14 Q And did she appear to be cognitive in
15 understanding what was going on at that time?

16 A The Notary said that she kind of seemed
17 out of it, but she was willing to sign. When I mean
18 out of it, she wasn't happy-go-lucky. She was just
19 kind of there.

20 Q But the Notary felt that it was still
21 appropriate to sign the power of attorney, correct?

22 A Yes.

23 Q At the time, did you attempt to contact
24 Mr. McCoy?

25 A I did.

1 Q And what happened?

2 A I made an appointment with him to see him
3 on January 17th, and he had an appointment at another
4 office in town, so he was going to come see me
5 afterward. And then he called me and said that he was
6 going to invoke his Fifth Amendment right, and he
7 didn't want to speak to me.

8 Q After that, did you reach out to Ginger
9 Shreve?

10 A Ginger Shreve, yes, is San Pedro
11 Fiduciary. She is the one that has been taking care of
12 Sandra since October of 2017.

13 Q When you say taking care of her, how is
14 her relationship different than Mr. McCoy's
15 relationship with Sandra?

16 A So, San Pedro Fiduciary takes care of all
17 her bills, pays. Also, they have an in-home care nurse
18 that takes care of her, and they provide the nurse.

19 Q And when you went to talk to her, did she
20 inform you that she was Ms. O'Riley's guardian?

21 A That's correct. She is the court
22 appointed guardian for Ms. O'Riley.

23 Q And when you had met with her, did she
24 provide you any transaction logs for the mortgage or
25 bank statements?

1 A Yes, she provided me all the statements
2 since she started taking over what she had.

3 Q And did she discuss with you that there
4 were missed mortgage payments from June of 2017 to
5 September of 2017?

6 A That's correct. She had to make four
7 mortgage payments all at one time because the mortgage
8 was not being paid by Mr. McCoy.

9 Q As power of attorney for Ms. O'Riley, was
10 that Mr. McCoy's responsibility?

11 A Yes, it was.

12 Q Did you eventually obtain some bank
13 records for Ms. O'Riley?

14 A I did.

15 Q And when you reviewed those bank accounts
16 and statements, did you discover any suspicious
17 activity?

18 A I did.

19 Q Would you please describe some of those
20 incidents?

21 A I can describe it as there was large cash
22 withdrawals made. No receipts were every written out
23 for purchases made for Mr. McCoy. Just to give you an
24 idea, on one Wells Fargo checking account, over \$4600
25 in purchases were made from December, 2016 until

1 September, and with bank fees that were owed, which
2 included overdrafts, withdrawals, bank checks that were
3 written, we're talking over \$25,000 was taken out of
4 her account.

5 There was payments made to Lonnie McCoy,
6 his own personal credit card bills and to his own
7 personal checking account. There were transfers made
8 from her account with Wells Fargo into his personal
9 checking account.

10 Q During your investigation, did you also
11 discover that there was a City of Sierra Vista payment
12 in the amount of \$125.39 that was made out of Ms.
13 O'Riley's account, but was actually for the residence
14 of the McCoy's?

15 A That's correct. It was made for 865
16 Charles Drive, not 1775 Avenida La Corta where Ms.
17 O'Riley was living.

18 Q And when you spoke to Ginger, did she
19 provide you with bank statements for a credit union?

20 A Yes.

21 Q And did those statements show -- have a
22 benefit check of around \$12,000 that was deposited into
23 Ms. O'Riley's account?

24 A That was put into the Wells Fargo
25 account, that's correct. The credit union, she was

1 getting a check every month for VA benefits, also, that
2 went into the credit union. The Social Security check
3 is what went in for -- \$12,000 went into the Wells
4 Fargo account.

5 Q So, Ms. O'Riley has -- it appears that
6 she has several accounts. She has a credit union
7 account and a Wells Fargo account. Do you know who
8 opened those, or when they opened those?

9 A Yes. The Wells Fargo account was opened
10 by Lonnie McCoy and Sandra O'Riley in December of 2016,
11 and then the American Southwest Credit Union accounts
12 were opened, I believe, in June of 2017, in both of
13 their names.

14 Q And so, the account that was opened you
15 said December of 2016, is that correct?

16 A That's correct.

17 Q Was opened by Mr. McCoy and Ms. O'Riley?

18 A Yes, it was. He was, as the power of
19 attorney.

20 Q And did you notice any suspicious
21 withdrawals or deposits from Ms. O'Riley's account into
22 Mr. McCoy's check account or his wife's checking
23 account?

24 A Yes, there were several transfers and
25 from his -- from Ms. O'Riley's account into Mr. McCoy's

1 account and into his wife, Ms. Morales' account.

2 Q And are you aware of whether or not Ms.
3 O'Riley had any credit cards?

4 A She only had one. It was a Sears credit
5 card. And from December of 2016 until the end of 2017,
6 only one payment was made for thirty one dollars on the
7 Sears credit card. Other than that, she had no other
8 credit cards.

9 Q But were there payments made to credit
10 cards?

11 A Yes, Fingerhut, Capital One payments,
12 there was multiple Wells Fargo credit cards which
13 belonged to Lonnie McCoy that these payments were being
14 made.

15 Q And I'm sorry, you said those cards
16 belonged to Lonnie McCoy?

17 A That's correct.

18 Q But that the payment was received out of
19 Ms. O'Riley's account?

20 A That's correct.

21 Q And did you notice any excessive fees on
22 Ms. O'Riley's bank accounts that appeared suspicious to
23 you?

24 A There was a lot of overdraft fees during
25 that time frame from October of -- from December, 2016

1 to October of 2017. There was quite a few overdraft
2 fees, and he was supposed to be taking care of -- make
3 sure that there was enough money and not overdrafting
4 them.

5 Q And that was his responsibility as a
6 power of attorney, is that correct?

7 A That's correct.

8 Q And did you eventually make contact with
9 Mr. McCoy?

10 A I did. On January 4th, I went over to
11 the office where I met him. He had an appointment the
12 week before. I knew that he was going to be there at
13 9:30 in the morning. I went to talk to him to see if
14 he was willing to talk to me. He was not willing to
15 talk to me again, so I arrested him at that time.

16 Q What did you arrest him for?

17 A I arrested him for theft from a
18 vulnerable adult, and I arrested him for fraudulent
19 schemes, and then we added the abuse of the power of
20 attorney and some money laundering charges.

21 Q So, before we get to the vulnerable adult
22 portion, there was a second account opened at the
23 credit union in Ms. O'Riley's name in June of 2017, is
24 that correct?

25 A Yes.

1 Q And was there anything odd regarding that
2 account, and specifically who the primary account
3 holder was and what the address associated with that
4 account was?

5 A Yes, the account was opened in Sandra
6 O'Riley's name with Lonnie McCoy being the power of
7 attorney. I noticed on the statements that every month
8 that actual address was changing. It started out at La
9 Corta. Then it went to his, Lonnie McCoy's home
10 address on Santa Claus. It was no longer -- statements
11 were no longer going to Sandra O'Riley's address.

12 Q And were there significant withdrawals
13 from that account?

14 A Yes. Every month at the beginning of the
15 month, money would go into it. The following day, the
16 whole thing would be cleared out through cash
17 withdrawal.

18 Q And those withdrawals were supposed to be
19 for Ms. O'Riley's benefit?

20 A Yes.

21 Q And did Mr. McCoy ever provide to anyone
22 any receipts that would prove those funds were spent
23 for Ms. O'Riley's benefit?

24 A No, he did not. He was asked to by Adult
25 Protective Services. He was asked for receipts from --

1 also from the fiduciary company, Ginger Shreve, but he
2 wouldn't talk to me about it, so I didn't get a chance
3 to ask him about the receipts. But he failed to
4 produce one receipt for any purchases made.

5 Q Now, that same day that that account was
6 opened in June of 2017, did the McCoys open their own
7 account at the credit union?

8 A Yes, they did. They have their own
9 accounts at the credit union.

10 Q What's the address associated with that
11 account?

12 A That I don't recall.

13 Q Was it an address associated with the
14 McCoys?

15 A Yes, I believe it was 65 Charles Drive.

16 Q And that is the McCoys' address?

17 A That's their home address, yes.

18 Q Were there any suspicious transfers
19 regarding Ms. O'Riley's credit union account and that
20 of the McCoys' account that had been opened at the same
21 credit union?

22 A When they opened the account, they took
23 money out and slid it over into their account to open
24 up their own account.

25 Q With Ms. --

1 A With Ms. O'Riley's money. They opened up
2 the account with Ms. O'Riley's money.

3 Q And let's see, how old is Ms. O'Riley?

4 A She is 67.

5 Q And did you receive any medical reports
6 regarding Ms. O'Riley's mental well-being and her state
7 of mental awareness?

8 A I did. She was currently being seen by a
9 psychiatrist who had stated for years that she is not
10 -- cannot take care of herself.

11 And she was doing fine when her husband
12 was taking care of her, and he passed away in 2015, and
13 then her daughter started taking care of her.

14 And then what APS did, they actually --
15 in 2017, they actually ordered their own doctor to do
16 an evaluation on her, and they determined that she is
17 unable to take care of herself physically. She can't
18 handle finances, so she needed a guardianship and a
19 conservatorship. She needed both.

20 Q So, in April of 2017, did Adult
21 Protective Services initiate that psychological
22 evaluation of Ms. O'Riley?

23 A Yes, they did.

24 Q And was a statement of vulnerability
25 provided to you?

1 A Yes.

2 Q And in that statement of vulnerability,
3 did the Doctor describe Ms. O'Riley as not being able
4 to take care of herself, bathe herself, feed herself,
5 let alone drive or handle her finances?

6 A That is correct.

7 Q And so, all of these withdrawals and
8 transactions that you had noticed, would they be likely
9 to have happened by Ms. O'Riley's own doing?

10 A No.

11 Q And did you see other activity that made
12 you think that someone other than Ms. O'Riley was
13 withdrawing money or using her bank account for their
14 own benefit as opposed to hers?

15 A Other than Mr. McCoy making withdrawals,
16 there were several charges on her Wells Fargo debit
17 card to places such as hotels in town, that she has her
18 own house. There is no need for her to stay at a
19 hotel.

20 Q And are you aware of whether or not Ms.
21 O'Riley was in a car accident which resulted in
22 traumatic brain injury?

23 A Yes, several years ago she was.

24 Q And so, according to the statement of
25 vulnerability, she was, in fact, a vulnerable adult, is

1 that correct?

2 A That is correct.

3 Q And are there other issues in this
4 investigation that you would like to bring up to the
5 Grand Jury?

6 A At this point, other than the fact that
7 he had the power of attorney and because she signed it
8 over to him and put her trust in him to take care of
9 her, and he was taking care of himself, he was taking
10 care of his wife and I don't know who else he was
11 taking care of, and he used the money for his own
12 purpose and not for the good of Ms. Sandra O'Riley.

13 Q And did everything that you have
14 described today occur within Cochise County?

15 A Yes, it did.

16 MS. DRIGGS: I have no further questions
17 for this witness.

18 Does any member of the Grand Jury have
19 any questions?

20 MS. HERRIMAN: Herriman. Did you mention
21 one time that there was a greater than \$25,000
22 withdrawal?

23 THE WITNESS: No, total.

24 MS. HERRIMAN: Total?

25 THE WITNESS: Yes, ma'am.

1 MS. HERRIMAN: Thank you.

2 MR. WHITE: White. Just for
3 clarification, I think that you said it, but I want to
4 make sure that I got it right, the two accounts were
5 opened with Wells Fargo and a credit union account in
6 June. They were opened under the power of attorney?
7 She was never there. He went and opened them?

8 THE WITNESS: No, she was there with him.
9 She had to sign, also.

10 MR. WHITE: She did sign?

11 THE WITNESS: She has to sign, that's
12 correct.

13 MS. DRIGGS:

14 Q Did she sign as a signor of the account?

15 A She is the main holder of the account,
16 and then he is -- and then he signs as the power of
17 attorney.

18 Q And as her power of attorney, that gave
19 him access to the account as though he were the primary
20 owner, is that correct?

21 A That's correct.

22 MS. DRIGGS: Are there other questions?

23 Okay. Mr. Foreman, members of the Grand
24 Jury, may the witness be excused?

25 THE FOREPERSON: Yes.

1 (Witness exits Grand Jury Chambers.)

2

3 MS. DRIGGS: Does any member of the Grand
4 Jury have any questions regarding probable cause or
5 questions related to the law in this matter that I may
6 answer for you?

7 I see no hands.

8 In that case, may the court reporter and
9 I please be excused?

10 THE FOREPERSON: Yes.

11 (County Attorney and court reporter exit
12 Grand Jury chambers.)

13 MS. DRIGGS: Let the record reflect that
14 the court reporter and I have returned with the Grand
15 Jury. Mr. Foreman, has the Grand Jury reached a
16 decision regarding probable cause?

17 THE FOREPERSON: Yes, we have accepted
18 the Indictment as prepared and found true bill for
19 Counts 1 through 3 with a vote of 15 to zero on all
20 three counts.

21 MS. DRIGGS: Thank you, Mr. Foreman.

22 Let the record reflect that I am signing
23 the Indictments, and we may go off the record.

24


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C E R T I F I C A T E

STATE OF ARIZONA)
COUNTY OF COCHISE)

I, Aaron Schlesinger, hereby certify that as the Certified Court Reporter, Certificate No. 50095, I was present at the proceedings of the foregoing matter; that I took down in shorthand the proceedings had and oral testimony adduced. The same has been transcribed by me this 21st day of February, 2018. The foregoing pages contain a full, true and accurate record of the proceedings.

A handwritten signature in cursive script, reading "Aaron Schlesinger", is written over a horizontal line.

Aaron Schlesinger
Certified Court Reporter
for Division V